

New Regulations

TELECOMMUNICATIONS

The ILLINOIS COMMERCE COMMISSION adopted amendments to "Uniform System of Accounts for Telecommunications Carriers" (83 Ill Adm Code 710; 37 Ill Reg 17134) effective 6/20/14. The amendments implement provisions of Public Act 98-45, requiring electing providers and those providers offering solely competitive telecommunications services to file annual reports with ICC only to the extent required by ICC and allowing the provider to use the most recent version of Generally Accepted Accounting Practices or other systems it uses for financial reporting purposes. The amendments update incorporations by reference to 47 CFR 32 (federal uniform system of accounts for telecommunications providers) although that regulation remains unchanged since adopted in 2005. ICC also adopted amendments to the Part titled "Cost Allocation for Large Local Exchange Carriers" (83 Ill Adm Code 711; 37 Ill Reg 17230) effective 6/20/14 implementing provisions of Public Act 98-45 regarding accounting systems. Amendments to Part 711 implement statutory provisions requiring electing providers (telcos that choose market regulation for their competi-

tive retail telecommunications services) or providers that offer solely competitive services to file annual reports only if ICC requires them to do so and, in these reports, to use generally accepted accounting practices or accounting systems uses for financial report purposes. The rulemaking applies these changes to the cost allocation manuals for apportioning intrastate costs between regulated and nonregulated activities and to an additional provision regarding financial reporting. Finally, ICC also repealed the Part titled "9-1-1 Implementation Reports (General Order 208)" (83 Ill Adm Code 720; 37 Ill Reg 20558) effective 6/23/14 to eliminate obsolete rules requiring telephone companies to file reports on their implementation of 9-1-1 emergency phone service.

Questions/requests for copies/comments on the 3 ICC rulemakings: Brian W. Allen, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/782-7434.

WATER SUPPLIES

The ENVIRONMENTAL PROTECTION AGENCY adopted an amendment to "Permits" (35 Ill Adm Code 652; 38 Ill

(cont. next page)

Proposed Regulations

COSMETOLOGY

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Part titled "The Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Act of 1985" (68 Ill Adm Code 1175; 38 Ill Reg 13595) allowing barber schools to have internships as an optional part of their curricula. The program must meet the stated requirements including a maximum of 150 hours of possible credit. Barber students cannot serve the public until they have completed 150 hours of classroom instruction and practical application. Cosmetology schools may be approved to teach barbering. Requirements include space allocation, a detailed floor plan, signed fire inspection and a fiscal statement prepared by a CPA. All barbers, barber teachers, cosmetologists, and estheticians who are applying for licensure by endorsement may be asked to meet with the Board to discuss questions on their exams. Physical site requirements for barber schools, cosmetology schools, esthetics schools, nail technology schools, and hair braiding schools are updated. The rulemaking also

(cont. page 3)

NEW REGULATIONS: Rules adopted by agencies this week.

PROPOSED REGULATIONS: Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.

☞: Symbol designating rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.

QUESTIONS/COMMENTS/RULE TEXT: Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of The Flinn Report or the Illinois Register will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.

New Regulations

Reg 4554) effective 6/30/14 that allows EPA to issue construction permits to a community water supply even if it is in violation of the Environmental Protection Act or regulations when the requested permit is for construction or installation of equipment necessary to meet general public water supply requirements in 35 Ill Adm. Code 601. Municipal water supplies may be affected. IEPA also adopted amendments to "Testing Fees for Analytical Services" (35 Ill Adm Code 691; 36 Ill Reg 10565) effective 6/20/14 that implement provisions of Public Act 97-220 eliminating requirements that EPA determine drinking water program analysis fees in consultation with the Community Water Supply Testing Council. Instead, EPA must base its annual fee determination on actual and anticipated testing costs. The rulemaking further updates the Part regarding the program's notification and participation process. Small businesses or small municipalities that test or operate public drinking water supplies are affected by this rulemaking.

Questions/requests for copies of the 2 EPA rulemakings: Rex L. Gradeless (217/524-3332) for Part 652 and Sara Terranova (217/782-5544) for Part 691, EPA, 1021 N. Grand Ave. E., Springfield IL 62794-9276.

center or 15 percent if the mother is transferred to a hospital for delivery. Freestanding birth centers are affected by this rulemaking.

Questions/requests for copies: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3rd Floor, Springfield IL 62763-0002, 217/782-1233.

PUBLIC RECORDS

The HEALTH FACILITIES AND SERVICES REVIEW BOARD repealed the Part titled "Public Information, Rulemaking, and Organization" (2 Ill Adm Code 1925; 38 Ill Reg 3424) and adopted a new Part titled "Public Information Access, Rulemaking, and Organization" (2 Ill Adm Code 1925; 38 Ill Reg 3442) both effective 6/30/14. The rulemakings implement Public Act 96-542, an extensive revision of the Illinois Freedom of Information Act (FOIA) that affects what documents and information agencies must make public, the timelines for providing such information, and the appeals process when a request for information is denied. Under the Act and the new Part, the definition of "person" is expanded to include corporations, partnerships, firms, organizations, and associations. Information that must be disclosed includes records of funds, payrolls, settlement agreements, and some criminal history records. Information exempt from disclosure includes personal information (e.g., Social Security numbers, home addresses); certain personnel information exempt under the Personnel Record Review Act; attorney-client communications; minutes of closed meetings; and information that could compromise a person's or facility's security, jeopardize a law enforcement investigation, or interfere with a person's right to a fair trial or impartial hearing. Other provisions specify how and to whom a request for public information should be submitted, shorten the timeline for response to a request from 7 to 5 business days, and list conditions under which the agency may extend the timeline (e.g., if a large number of records are sought or if they require an extensive search to locate). Provi-

sions for appealing a denial of requested documents to the Attorney General's public access counselor and for filing legal actions seeking disclosure of records are also included. Original records may be inspected and copied at agency headquarters and off-site copying may be allowed under the constant supervision of agency staff. Contractors, rather than agency personnel, may copy the records under certain conditions. The new Part also lists charges for copies made in various formats (black and white photocopies, color or oversized copies, microfilm, audio or video tapes, CD ROM) and specifies that the agency will not charge a fee if it fails to provide the material within the required timeline. New provisions for appealing a denial of requested documents to the Attorney General's Public Access Counselor are also included. The new Part also includes provisions covering rulemaking and Board organization. Those affected by these rulemakings include individuals, groups, or business entities seeking public information or documents from the Board.

Questions/requests for copies of on the 2 HFSRB rulemakings: Claire Burman, HFSRB, 122 S. Michigan Avenue, 7th Flr., Chicago IL, 60603, 312/814-8814, e-mail: Claire.Burman@illinois.gov.

BIRTH CENTERS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted an amendment to "Specialized Health Care Delivery Systems" (89 Ill Adm Code 146; 37 Ill Reg 18005) concerning payment rates for freestanding birth centers. The rulemaking establishes payment rates for uncomplicated hospital-based deliveries in Cook County as the benchmark for payments to freestanding birth centers located in Cook County. For birth centers located outside of Cook County, the statewide average rate for uncomplicated hospital-based deliveries will be used as the benchmark. In both cases, birth centers receive 75 percent of the benchmark hospital rate if delivery takes place at the

INCOME TAX

The DEPARTMENT OF REVENUE adopted amendments to "Income Tax" (86 Ill Adm Code 100; 38 Ill Reg 3482 and 5782) effective 6/19/14, combining two separately proposed rulemakings. One rulemaking provides guidance to an employer claiming the income tax credit against the value of its annual withholding of income tax of its employees. To qualify, an employer must be in the business of motor vehicle manufacturing and meet one of the following conditions: a net loss; employing at least 1,000 full-time employees; has an agreement in effect as of 12/14/09 and is in compliance with it; a net loss, employing at least 1,000 full-time em-

(cont. page 4)

Proposed Regulations

clarifies that 1 credit hour is the equivalent of 30 clock hours and allows for electronic records for the schools to be stored on a secure off-site system. Official transcripts for students who have dropped out or withdrawn must be kept for 5 years. The rule also clarifies that any physical location that provides cosmetology, esthetics, nail technology, hair braiding or barbering services may be subject to registration. Those who operate barber, cosmetology, esthetics, nail technology and hair braiding schools or those who are interesting in attending an applicable school may be affected by this rulemaking.

Questions/requests for copies/comments through 8/21/14: Craig Cellini, 320 W. Washington, 3rd Floor, Springfield IL 62786, 217/785-0813.

HEALTH AND SAFETY

The DEPARTMENT OF LABOR proposed amendments to "Health and Safety" (56 Ill Adm Code 350; 38 Ill Reg 13728) moving variances from recordkeeping into a separate Section. Public employers subject to these requirements may be interested in this rulemaking.

Questions/requests for copies/comments on this DOL rulemaking through 8/21/14: Cheryl Neff, DOL, 900 S. Spring St, Springfield, IL 62704, 217/782-9386.

STATE TOLL HIGHWAY

The STATE TOLL HIGHWAY AUTHORITY proposed amendments to "State Toll Highway Rules" (92 Ill Adm Code 2520; 38 Ill Reg 13843) increasing the time to pay tolls, fees and fines after a final order is entered from 14 calendar days to 30 calendar days. The time to respond to a certified report of pending suspension or a claim of immobilization, tow or impoundment is being increased from 21 days to 30 days. The rulemaking also lowers the length of a truck that requires a permit from 80 feet to 53 feet to match with DOT requirements.

Questions/requests for copies/com-

ments through 8/21/14: David A. Goldberg, ISTHA, 2700 Ogden Ave., Downers Grove IL 60515, 630/241-6800.

DRIVER'S LICENSES

The SECRETARY OF STATE proposed amendments to "Issuance of Licenses" (92 Ill Adm Code 1030; 38 Ill Reg 13734) requiring visa-status temporary visitor driver's license applicants to affirm under penalty of perjury at the time of application that they are not eligible for a social security number instead of obtaining verification from the Social Security Administration.

Questions/requests for copies/comments through 8/21/14: Jennifer Egizii, SOS, 2701 S. Dirksen Parkway, Springfield IL 62723, 217/557-4462.

BREATH ALCOHOL DEVICES

SOS also proposed amendments to "Procedures and Standards" (92 Ill Adm Code 1001; 38 Ill Reg 13790) updating rules for use of Breath Alcohol Ignition Interlock Devices (BAIID) to reflect current practices and standards. The rules include new provisions for BAIIDs that can be read and calibrated remotely, for camera positioning that allows the viewer to detect BAIID circumvention devices, and for instances when a BAIID permit can be modified or waived (e.g., an immediate family member of the permittee who cannot provide an adequate breath sample must also drive the vehicle). The waiting period for another hearing following cancellation of a Restricted Driving Permit is also reduced from 1 year to 90 days. Persons with BAIID driving permits, their employers, and facilities that install or inspect BAIIDs may be affected.

Questions/requests for copies/comments through 8/21/14: Brenda Glahn, SOS, 298 Howlett Bldg., Spfld IL 62756, 217/785-3094, bglahn@ilsos.net.

STATE RECORDS

SOS proposed amendments to the Part titled "State Records Commis-

sion" (44 Ill Adm Code 440; 38 Ill Reg 13747) updating requirements for State records retention to reflect current technology and practices. Agencies seeking permission to dispose of records must file a Records Disposal Certificate with the Commission listing all records targeted for disposal at least 30 days in advance. Records may not be disposed of until the certificate has been approved and returned. Permission to dispose of records ahead of the regularly scheduled disposal date may be sought by an agency when records have been damaged by water, fire, smoke, insects, mold or another disaster in a way that poses a threat to employees' health and safety. A completed Records Disposal Certificate must be filed and the Chairman of the Commission may grant such a request only after physically reviewing the damaged records. Agencies may also contract with external vendors to perform digitization, storage or management of records, but the agency remains responsible for the proper management of records in a vendor's temporary custody. Local governments may be affected by this rulemaking.

Questions/requests for copies/comments through 8/21/14: David Joens, Director, Illinois State Archives, Norton Bldg. 2nd Floor W., Springfield IL 62756, 217/782-4682, djoens@ilsos.net.

DCFS SCHOLARSHIPS

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES proposed amendments to "Department of Children and Family Services Scholarship Program" (89 Ill Adm Code 312; 38 Ill Reg 13564) that will add to rule the weighted point system used to score applicants.

CHILD/FOSTER CARE

DCFS also proposed amendments to "Background Checks" (89 Ill Adm Code 385; 38 Ill Reg 13570), which dictates the applicability and nature of the requirement that employees or residents of child care facilities or foster
(cont. page 4)

New Regulations (cont.)

ployees, and applied for an agreement within 365 days after 12/14/09 resulting in the credit; or had a net operating loss carry forward in calendar year 2008, applied for an agreement by 1/1/10, creates at least 400 new jobs in Illinois, retains at least 2,000 over a 10 year period and makes a capital investment of at least \$75 million. Additionally, the rulemaking

provides guidance to an employer in claiming the small job creation tax credit. The credit is equal to ½ the annual withholding per job created with a maximum of \$2,500/employee. Guidance provided explains how election is made to claim the credits and credits may not exceed tax liability. Another rulemaking allocates to Illinois as nonbusiness income any lot-

tery winnings and unemployment compensation if paid by Illinois regardless of whether the taxpayer is an Illinois resident.

Questions/ requests for copies: Paul Caselton, DOR Legal Services, 101 W. Jefferson, Springfield IL 62794, 217/782-7055.

Proposed Regulations (cont.)

homes undergo background checks. Changes include the following:

updating the list of disqualifying criminal convictions to reflect the adoption of the Criminal Code of 2012; raising from 17 to 18 the age at which fingerprinting and criminal history background checks are necessary for adult members of the household; and clarifying that the background check requirement extends also to non-licensed service providers with access to children for whom DCFS is responsible and all members of that provider's household, to stepchildren or related children of the provider who are regularly in the home for visitation but do not reside there, persons 13 or older

who plan to move into a licensed foster family home, and to all direct child welfare agency employees. This rulemaking may affect DCFS-licensed child welfare agencies, child care facilities, and foster homes.

Questions/requests for copies/comments on the 2 DCFS rulemakings through 8/21/14: Jeff Osowski, DCFS, 406 East Monroe, Station #65, Springfield IL 62701-1498; 217/524-1983; cfpolicy@idcfs.state.il.us.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed

amendments to "Pay Plan" (80 Ill Adm Code 310; 38 Ill Reg 13489) adding three new titles (Firearms Eligibility Analyst I and II and Firearms Eligibility Analyst Trainee) with corresponding title codes and salary ranges to the Pay Plan. The rulemaking also assigns each of these titles to an AFSCME bargaining unit and pay grade. Also, obsolete pay rates no longer in effect are being removed from pay tables for two unrelated bargaining units.

Questions/requests for copies/comments through 8/21/14: Jason Doggett, DCMS, 504 Stratton Bldg., Spfld IL 62706, 217/782-7964, fax 217/524-4570, e-mail: CMS.PayPlan@illinois.gov.

Joint Committee on Administrative Rules

Senator Pamela Althoff

Representative Greg Harris

Senator Don Harmon

Representative Lou Lang

Senator Tony Munoz

Representative David Leitch

Senator Sue Rezin

Representative Don Moffitt

Senator Dale A. Righter

Representative Tim Schmitz

Senator Ira Silverstein

Representative Andre Thapedi

**Vicki Thomas
Executive Director**

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. The rulemakings will be considered at JCAR's July 15, 2014 meeting.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

"Pay Plan" (80 Ill Adm Code 310) proposed 5/9/14 (38 Ill Reg 9719)

DEPARTMENT OF CORRECTIONS

"County Jail Standards" (20 Ill Adm Code 701) proposed 4/25/14 (38 Ill Reg 8511)

DEPARTMENT OF PUBLIC HEALTH

"Compassionate Use of Medical Cannabis Patient Registry" (77 Ill Adm Code 946) proposed 4/18/14 (38 Ill Reg 8243)

DEPARTMENT OF AGRICULTURE

"Compassionate Use of Medical Cannabis Pilot Program" (8 Ill Adm Code 1000) proposed 4/18/14 (38 Ill Reg 8069)

DEPARTMENT OF HUMAN SERVICES

"Supplemental Nutrition Assistance Program (SNAP)" (89 Ill Adm Code 121) proposed 4/18/14 (38 Ill Reg 8241)

"Temporary Assistance for Needy Families" (89 Ill Adm Code 112) proposed 3/28/14 (38 Ill Reg 7028)

ILLINOIS COMMERCE COMMISSION

"Service Quality and Customer Protection Applicable to Wireless Eligible Telecommunications Carriers" (83 Ill Adm Code 736) proposed 2/28/14 (38 Ill Reg 5441)

"Standards for Service for Local Exchange Telecommunications Carriers" (83 Ill Adm Code 730) proposed 12/27/13 (37 Ill Reg 20562)

DEPARTMENT OF REVENUE

"Retailers' Occupation Tax" (86 Ill Adm Code 130) proposed 4/18/14 (38 Ill Reg 8294)

"Medical Cannabis Cultivation Privilege Tax Law" (86 Ill Adm Code 429) proposed 4/18/14 (38 Ill Reg 8319)

"Income Tax" (86 Ill Adm Code 100) proposed 1/10/14 (38 Ill Reg 832)

DEPARTMENT OF LABOR

"Payment and Collection of Wages or Final Compensation" (56 Ill Adm Code 300) proposed 3/28/14 (38 Ill Reg 7052)

"Employee Classification" (56 Ill Adm Code 240) proposed 1/31/14 (38 Ill Reg 3298)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

"Rules for Administration of the Compassionate Use of Medical Cannabis Pilot Program" (68 Ill Adm Code 1290) proposed 4/18/14 (38 Ill Reg 8163)